

CHAPTER NO. 76

SENATE BILL NO. 2397

By Southerland

Substituted for: House Bill No. 2413

By Yokley, Litz

AN ACT to amend Chapter 104 of the Acts of 1903; as amended by Chapter 343 of the Acts of 1905; Chapter 354 of the Acts of 1907; Chapter 477 of the Acts of 1907; Chapter 221 of the Private Acts of 1917; Chapter 369 of the Private Acts of 1919; Chapter 272 of the Private Acts of 1921; Chapter 292 of the Private Acts of 1921; Chapter 221 of the Private Acts of 1921; Chapter 231 of the Private Acts of 1925; Chapter 497 of the Private Acts of 1927; Chapter 589 of the Private Acts of 1927; Chapter 710 of the Private Acts of 1929; Chapter 628 of the Private Acts of 1931; Chapter 551 of the Private Acts of 1933; Chapter 761 of the Private Acts of 1933; Chapter 421 of the Private Acts of 1935; Chapter 814 of the Private Acts of 1935; Chapter 496 of the Private Acts of 1939; Chapter 497 of the Private Acts of 1939; Chapter 495 of the Private Acts of 1939; Chapter 400 of the Private Acts of 1945; Chapter 515 of the Private Acts of 1949; Chapter 516 of the Private Acts of 1949; Chapter 573 of the Private Acts of 1951; Chapter 530 of the Private Acts of 1951; Chapter 474 of the Private Acts of 1953; Chapter 231 of the Private Acts of 1953; Chapter 430 of the Private Acts of 1953; Chapter 472 of the Private Acts of 1953; Chapter 539 of the Private Acts of 1953; Chapter 473 of the Private Acts of 1953; Chapter 143 of the Private Acts of 1957; Chapter 17 of the Private Acts of 1959; Chapter 4 of the Private Acts of 1959; Chapter 264 of the Private Acts of 1961; Chapter 253 of the Private Acts of 1965; Chapter 292 of the Private Acts of 1967; Chapter 234 of the Private Acts of 1967; Chapter 70 of the Private Acts of 1969; Chapter 131 of the Private Acts of 1971; Chapter 132 of the Private Acts of 1971; Chapter 202 of the Private Acts of 1974; Chapter 49 of the Private Acts of 1975; Chapter 259 of the Private Acts of 1978; Chapter 277 of the Private Acts of 1978; Chapter 278 of the Private Acts of 1978; Chapter 279 of the Private Acts of 1979; Chapter 271 of the Private Acts of 1980; Chapter 32 of the Private Acts of 1993; Chapter 120 of the Private Acts of 1994 and Chapter 146 of the Private Acts of 2002; and any other acts amendatory thereto, relative to the charter of the City of Newport.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 104 of the Acts of Tennessee for 1903, as amended by Chapter 343 of the Acts of 1905; Chapter 354 of the Acts of 1907; Chapter 477 of the Acts of 1907; Chapter 221 of the Private Acts of 1917; Chapter 369 of the Private Acts of 1919; Chapter 292 of the Private Acts of 1921; Chapter 221 of the Private Acts of 1921; Chapter 272 of the Private Acts of 1921; Chapter 231 of the Private Acts of 1925; Chapter 497 of the Private Acts of 1927; Chapter 589 of the Private Acts of 1927; Chapter 710 of the Private Acts of 1929; Chapter 628 of the Private Acts of 1931; Chapter 551 of the Private Acts of 1933; Chapter 761 of the Private Acts of 1933; Chapter 421 of the Private Acts of 1935; Chapter 814 of the Private Acts of 1935; Chapter 496 of the Private Acts of 1939; Chapter 497 of the Private Acts of 1939; Chapter 495 of the Private Acts of 1939; Chapter 400 of the Private Acts of 1945; Chapter 515 of the Private Acts of 1949; Chapter 516 of the Private Acts of 1949; Chapter 573 of the Private Acts of 1951; Chapter 530 of the Private Acts of 1951; Chapter 474 of the Private Acts of 1953; Chapter 231 of the Private Acts of 1953; Chapter 430 of the Private Acts of 1953; Chapter 472 of the Private Acts of 1953; Chapter 539 of the Private Acts of 1953; Chapter 473 of the Private Acts of 1953; Chapter 143 of the Private Acts of 1957; Chapter 4 of the Private Acts of 1959; Chapter 17 of the Private Acts of 1959; Chapter 264 of the Private Acts of 1961; Chapter 253 of the Private Acts of 1965; Chapter 234 of the Private Acts of 1967; Chapter 292 of the Private Acts of 1967; Chapter 70 of the Private Acts of 1969; Chapter 132 of the Private Acts of 1971; Chapter 131 of the Private Acts of 1971; Chapter 202 of the Private Acts of 1974; Chapter 49 of the Private Acts of 1975; Chapter 277 of the Private Acts of 1978; Chapter 278 of the Private Acts of 1978; Chapter 259 of the Private Acts of 1978; Chapter 279 of the Private Acts of 1979; Chapter 271 of the Private Acts of 1980; Chapter 32 of the Private Acts of 1993; Chapter 120 of the Private Acts of 1994 and Chapter 146 of the Private Acts of 2002; and any other acts amendatory thereto, is amended by deleting such chapter, as amended, in its entirety and by substituting instead the following language to be the charter of the City of Newport:

Section 1. Incorporation, name, general powers, and boundaries.

The municipality of Newport, in the County of Cocke, and the inhabitants thereof, are hereby constituted a body politic and corporate by the style and name of "City of Newport" and shall have perpetual succession by the corporate name; may sue and be sued, plead and be impleaded; grant, receive, purchase and hold real, mixed and personal property; may sell, lease, or dispose of the same for benefit of the municipality; and may do all other acts authorized by municipal, state and federal law as the stated and implied powers of a municipality; and may have and use a corporate seal and change it at its pleasure.

The boundaries of Newport shall be those fixed by Chapter 104 of the Acts of 1903, as amended, and as extended and contracted by ordinances of the City passed under the general law of the state governing annexations and contractions; and as further amended pursuant to the general laws of the State of Tennessee, and any subsequent annexations or detachments of territory made pursuant to law.

Section 2. Miscellaneous powers enumerated.

The City of Newport may exercise the following powers:

(1) Assess, levy, and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for state, county or city purposes;

(2) Adopt such classifications of the subjects and objects of taxation as may not be contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof, in the manner hereinafter provided;

(6) In accordance with Tennessee Code Annotated, Title 9, Chapter 21, issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the city, upon the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the city for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the city or state;

(9) Condemn property, real or personal or any easement, interest, or estate or use therein, either within or without the city, for present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of state law;

(10) Take and hold property within or without the city or state upon trust; and to administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the city, its inhabitants, or any part thereof;

(12) Grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer. The city may prescribe in each grant of a franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the city and those therein. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts; and

when an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association, or corporation, but also as against the city itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer. The city may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the city at the date of the contract, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and compel, from time to time, reasonable extensions of facilities for such services, but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13) of this section, or those powers previously granted to the Newport Utilities Board by private acts passed by the legislature of the State of Tennessee and signed into law by the governor of the State of Tennessee;

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits and to regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under the provisions of state law, or in such other manner as may be provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish; street lighting, street sweeping, street sprinkling, street flushing, and street oiling; the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the city;

(18) Acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or to license and regulate such collection and disposal, and the cost of such collection, regulation or disposal may be funded by taxation or special assessment to the property owner;

(20) License and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the city, and to exercise general police powers;

(23) Prescribe limits within which such business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure, and weigh any article for consumption or use within the city, and to charge reasonable fees therefor; and to provide standards of weights, tests and measures in such manner as may be provided by general law;

(25) Establish, regulate, license, and inspect weights and measures in such manner as may be provided by general law;

(26) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof and require any alteration or changes necessary to make them healthful, clean, or safe;

(27) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services;

(28) Purchase or construct, maintain, and establish a correctional facility, for the confinement and detention of persons who violate laws within the corporate limits of the city, or to contract with the county to keep such persons in the correctional facility of the county;

(29) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(30) Establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation, to purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain, and operate a complete educational system within the city;

(31) Regulate, tax, license or suppress the keeping or going at large of animals within the city; to impound the same and in default of redemption to sell or kill the same;

(32) To extend and construct its streets, alleys and sidewalks over, through, across and under the rights-of-way, tracks, sidetracks, switchyards, depot buildings and grounds, and other property of any railway corporation, or other corporation or person that is now or may hereafter be owning or operating a railway through or within the boundaries of the City of Newport, Tennessee; and through, over, across and under rights-of-way, tracks, sidetracks, switchyards, depot buildings and grounds, and other property of the lessees of such railway and other corporations, and of any other person, firm or other corporation;

(33) To lay, construct, extend and maintain water pipelines, surface sewers and drain sewers, over, through, across and under the rights-of-way, tracks, sidetracks, switchyards, depot buildings, grounds and other property of any railway corporation, or other corporation that is now, or may hereafter be, owning or operating a railway through, or within the boundaries of the City of Newport, Tennessee, and through, over, under and across the rights-of-way, tracks, sidetracks, switchyards, depot buildings and grounds, and other property of the lessees of such railway and other corporations, and of any other person, firm or corporation that may be in possession of, using or controlling all or any part of the rights-of-way and properties of such railway corporation or other corporations;

(34) Exercise the powers of eminent domain, and to condemn and take the property, buildings, depot buildings, privileges, rights-of-way, rights and easements of such railway corporation, and other corporations, their lessees, and of any other person, firm or corporation that may be in possession of, using or controlling all or any part of the rights-of-way and properties of such railway corporation, or other corporations, in the manner, mode, and upon the terms provided in Tennessee Code Annotated, Title 29, Chapters 16 and 17;

(35) Call elections as hereinafter provided; and

(36) Have and exercise all powers which now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though such powers were specifically enumerated herein.

Section 3. Regular elections. The election commissioners of Cocke County after ten (10) days notice shall hold elections in conjunction with the regular November election in 1994 and every four (4) years thereafter for the purpose of electing five (5) persons to serve as aldermen and one (1) for mayor. Each such officer shall serve a term of four (4) years or until his successor is duly elected and qualified. Elections shall be held at the usual polling place and shall be in conformity to the election laws of this state.

Section 4. City hall voting precinct.

A new voting precinct shall be and is hereby created and established inside the corporate limits of the City of Newport, so as to comprise all that part of such city lying north of the Main Line of the Southern Railway. The polling place of such new precinct shall be the City Hall of such City of Newport, and the precinct shall be called "City Hall".

Section 5. Voting qualifications.

Persons living within the bounds of such corporation who would be qualified to vote for the members of the General Assembly of this state shall be entitled to vote for mayor and aldermen for such corporation. In addition, in accordance with Tennessee Code Annotated, Section 2-2-107(3), no more than two (2) persons who own an interest in real, taxable property within the bounds of the corporation, shall be entitled to vote based upon the ownership of an individual tract of property regardless of the number of property owners.

Section 6. Qualifications of mayor and aldermen - Vacancies.

No person shall be eligible for the office of mayor or aldermen unless he is a citizen of the City of Newport as hereunder incorporated. In case of death, removal or resignation of any of the officers of such corporation, the mayor and aldermen shall have the power to fill such vacancy for the unexpired time.

Section 7. Certificates of election.

The several persons qualified as aforesaid, having the highest number of votes at any election held, shall be taken as duly elected, and the commissioners of election shall within five (5) days thereafter, give to the five (5) aldermen and mayor, a certificate of their election.

Section 8. Oaths of office.

The mayor and aldermen of such city shall before entering upon the duties of their office, take an oath before any officer authorized to administer oaths to support the Constitution of the United States and the State of Tennessee, and to faithfully, uprightly and honestly discharge their duties as such officers, during their term of office.

Section 9. Duties of the mayor.

It shall be the duty of the mayor to preside at all meetings of the board of mayor and aldermen, to see that all the ordinances and bylaws of the city are duly observed and enforced, to call special meetings of the board of mayor and aldermen whenever he may deem it expedient, to make such suggestions and give such instructions with reference to the action of such board as in his judgment will be most conducive to the interests of the city, to employ counsel on behalf of the city in any case in which such city may be interested, when, in his judgment, the same may be necessary, and to perform such other duties as may be incumbent and binding upon him by the bylaws and ordinances of such city.

Section 10. City Administrator.

The board of mayor and aldermen shall appoint and fix the salary of a city administrator, who shall serve at the will of the board of mayor and aldermen. The city administrator shall be appointed by virtue of experience and/or educational qualifications for this position. Residence in the city at the time of appointment of a city administrator shall not be required as a condition of the appointment, but within ninety (90) days after reporting for work, the city administrator must become a resident of the City of Newport.

In the temporary absence or disability of the city administrator, the assistant city administrator, if such position is established, or any other department head designated by the city

administrator shall serve as acting city administrator. If and when the city administrator's absence exceeds thirty (30) consecutive days, the board of mayor and aldermen shall have the right to appoint another department head or another city employee as the acting city administrator.

The city administrator shall be the chief administrative officer of the city. The city administrator shall be responsible to the board of mayor and aldermen for the administration of all city affairs placed in his charge by or under this charter. The city administrator shall have the following powers and duties:

(1) To appoint and, when deemed necessary for the good of the service, suspend or remove all city employees and appointive officers provided for by or under this charter, with exceptions as provided in Sections 12 and 13 of this charter, and in accordance with the personnel rules adopted pursuant to this charter.

(2) To direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(3) To attend all board of mayor and aldermen meetings and have the right to take part in discussion, but may not vote.

(4) To see that all laws, provisions of this charter and acts of the board of mayor and aldermen, subject to enforcement by the city administrator or by officers subject to his direction and supervision, are faithfully executed.

(5) To prepare and submit the annual budget and an annual capital budget update to the board of mayor and aldermen at the appropriate time.

(6) To submit to the board of mayor and aldermen and make available to the public a complete report on the finances and administrative activities of the city as of the end of each month and at the end of the fiscal year.

(7) To make such other reports as the board of mayor and aldermen may require concerning the operations of city departments, offices and agencies subject to the city administrator's direction and supervision.

(8) To keep the board of mayor and aldermen fully advised as to the financial condition and future needs of the city and make such recommendations to the board of mayor and aldermen concerning the affairs of the city as he deems desirable.

The board of mayor and aldermen may not remove these powers and duties from the city administrator but may require the city administrator to perform such other duties as are specified in this charter or as may be required by the board of mayor and aldermen.

The board of mayor and aldermen and its members shall deal with the administrative services of the city only through the city administrator, except for the purpose of inquiry, and neither the board of mayor and aldermen nor any member thereof shall give orders or instructions to any subordinates of the city administrator. The city administrator shall take instructions from the board of mayor and aldermen when they are sitting in a duly convened meeting of the board of mayor and aldermen.

The city administrator shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days following the beginning of a new term of office next succeeding any general municipal election held in the city, at which election a new member of the board of mayor and aldermen is elected, or when a new member is appointed. The purpose of this provision is to allow any newly elected or appointed member of the board of mayor and aldermen to observe the actions and ability of the city administrator in the performance of the powers and duties of his office. After the expiration of the ninety (90) day period aforementioned, the city administrator may be removed only by a majority vote of the board of mayor and aldermen present and voting. Abstentions shall be counted neither as a yes nor a no vote.

Section 11. City Recorder.

The City Administrator shall appoint a city recorder who may also serve as treasurer or finance director.

Section 12. Police Civil Service

(a)(1) There is hereby created a system of Civil Service for the City of Newport Police Department. A Civil Service Board, hereafter referred to as "the Board" to consist of three (3) members is hereby created to administer the system of Civil Service. One (1) member shall be appointed by the board of mayor and aldermen of the City of Newport, one (1) member of the Board shall be elected by the members of the Classified Service, and one (1) member shall be elected by the two (2) members of the Board already appointed.

(2) The three (3) members thus appointed to the Board shall serve as Board members for a period of three (3) years, or until their successors are appointed and qualified. On or before the expiration of the term of each Board member, his successor shall be selected in the same manner as the prior selection of the Board member whose term expires, to the end that the successor to the member appointed by the board of mayor and aldermen shall likewise be appointed by such body, the successor to the member elected by the Classified Service shall also be appointed by such Classified Service, and the successor to the member appointed by the two (2) other Board members shall be appointed by the two (2) other Board members. Each term shall expire on December 31. All current appointments expire December 31, 2006. When the charter change becomes effective, the existing Board members will draw lots: 1, 2 and 3. The number drawn will signify the year(s) until December 31 remaining for that individual's term. Thereafter appointments shall be for three (3) year terms.

(3) No member of the Classified Service, or of the board of mayor and aldermen of the City of Newport, may be a member of the Board. The Board members shall receive for their services the fee designated by the board of mayor and aldermen. The Board members so appointed shall be a citizen of the United States, a resident of the City of Newport and eligible to vote in City elections. Prior to appointment, candidates are to be contacted to confirm they are willing to serve on the Board.

(4) Any member of the Board may be removed from office by the board of mayor and aldermen of Newport for incompetence, dereliction of duty, malfeasance in office or upon conviction of any crime involving moral turpitude. Provided, however, that no member of the Board shall be removed until charges shall have been preferred in writing, due notice given, and a full public hearing is held before the board of mayor and aldermen of the City of Newport; provided further, that such removal shall be for a period of ten (10) days, during which time a member so removed shall have the right of appeal to the Chancery Court of Cocke County, Tennessee, which court shall thereupon proceed to hear and determine such appeal. However, the hearing shall be confined to the determination of whether the order of removal made by the board of mayor and aldermen of the City of Newport was or was not made in good faith for proper cause, and no appeal to such court shall be taken except upon such grounds. The decision of the Court shall be final.

(5) The members of the Board shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this Section. Two (2) members of the Board shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the Board under and by virtue of the provisions of this Section. However, due notice of all meetings shall be given so that all three (3) members may have an opportunity to be present. The Board shall transact no business and make no decisions until and except while all three (3) Board members have taken office and remain qualified to act.

(b) The provisions of this Section shall apply to all current members of the Classified Service of the Newport Police Department. Newly hired officers shall be required to complete a probationary period of six (6) months. At the completion of the probationary period the officer shall be included under Civil Service upon notification by the Chief of Police.

(c)(1) The minimum standards for each position in the department are as follows:

(A) Written test, given by the Civil Service Board for the Police Department.

(B) Interview with the Civil Service Board for the Police Department.

(C) Assessment center: interview with a board of their peers, consisting of one (1) captain, one (1) lieutenant and one (1) sergeant.

(D) Interview with the Chief of Police.

(2) The evaluation process provided for in this Section shall be based upon the following system:

(A) Ten percent (10%) of the evaluation shall be based on education (specialized schooling as well as degree or military);

(B) Twenty-five percent (25%) of the evaluation shall be based on the results of a written test;

(C) Twenty percent (20%) of the evaluation shall be based on seniority, which shall also be used in the event of a tie between candidates;

(D) Twenty percent (20%) of the evaluation shall be based on the interview with the Board;

(E) Twenty percent (20%) of the evaluation shall be based on the assessment center interview; and

(F) Five percent (5%) of the evaluation shall be based on the Chief's evaluation of the candidate.

(3) The board of mayor and aldermen shall adopt an organizational structure for the Newport Police Department, by defining the rank structure as well as the number of positions of each rank within each division. The divisions shall be as follows:

(A) Administrative Division;

(B) Patrol Division;

(C) Detective Division.

(4) The Chief of Police shall be selected from within the Classified Service, if a suitable candidate can be chosen. All members of the Classified Service, in good standing, are eligible to apply for the position of Chief of Police should a vacancy in the office occur. When a vacancy occurs, the Civil Service Board shall certify the names of all persons eligible to fill the vacancy. If an eligible candidate is not chosen from the Classified Service, the Civil Service Board may accept applications from outside the Classified Service and the appointing authority shall appoint one of the persons so certified.

(d)(1) The Board shall organize by electing one of its members as chairman and shall hold regular meetings at least once a month and such additional meetings as may be required for the proper discharge of its duties. The Board shall appoint a secretary who shall keep its records, preserve all reports made to it, superintend and keep a record of all examinations and perform such other duties as the Board may prescribe.

(2) It shall be the duty of the Board to make suitable rules and regulations not inconsistent with the provisions of this section.

(A) Such rules and regulations shall provide in detail the manner in which examinations may be held and appointments, transfers, demotions, reinstatements, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration. Such rules and regulations shall include the methods used in determining the standard for each job classification in the Classified Service.

(B) These rules and regulations shall include provisions so that seniority may not be lost by persons holding a position in the Classified Service, if such persons leave the Classified Service to enter the United States military pursuant to the laws of the United States and the State of Tennessee that govern military leave on the part of employees; provided that such persons return to the Classified Service within the time prescribed by such laws following their honorable discharge or release from such service. In such cases, the period of

military service shall be included in the period of seniority of such persons to the extent required by law.

(3) The Board shall conduct investigations and report on all matters regarding the enforcement and effect of the provisions of this Section, and the rules and regulations prescribed hereunder. The Board shall also inspect all institutions and employment affected by the provisions of this Section, and ascertain whether this Section and such rules and regulations are being complied with. Such investigations shall be made by the Board on its own motion and may also be made on a petition of complaint stating that irregularities or abuses exist, or by setting forth the necessity for such investigation in writing. In the course of such investigation, the Board shall have the power to administer oaths, issue subpoenas, require the attendance of witnesses, and require the production of books, papers, documents, and accounts pertaining to the investigation. The failure upon the part of any person to comply with such subpoena or demand shall be deemed to be in violation of this Section.

(4) All hearings and investigations before the Board shall be governed by the provisions of this Section and by the rules of practice and procedure to be adopted by the Board. The Board, or its designated hearing officer, shall not be bound by technical rules of evidence. No informality in any procedure in a hearing shall invalidate any order, decision, rule or regulation made or approved by the Board, however no decision shall be binding unless concurred in by a majority of the Board members.

(5) The Board shall hear and determine appeals of complaints relative to the allocation of positions, the determination of job changes, the furnishing of rosters and the position of members of the Classified Service, and of applicants on such roster, and any other such matters relating to the administration of this Section which may be referred to the Board.

(6) The Board shall ensure that job classifications, the standard for filling such classifications and the roster of eligible appointees within each classification are kept continuously up to date.

(7) The Board shall make provisions for persons, including probationers, who are laid off as a result of the curtailment of expenditures and like causes. Such layoffs shall proceed in order of the person's appointment to the respective department of the Classified Service. Rules and regulations shall provide that persons who are laid off shall be reinstated before any new appointments to such department shall be made.

(8) The Board shall keep such records as may be necessary for the proper administration of this Section.

(e) All persons holding positions in the Police Department, including the Police Chief who, upon the effective date of this Section, have served in such position for a period of at least six (6) months previous thereto, shall be included in the system of Civil Service in the office, position or employment in which such persons held at the time the Section was enacted. Such persons shall be subject, however, to removal, demotion or suspension upon the same terms as any other person inducted permanently into Civil Service following the effective date of this act.

(f)(1) Applicants for a Civil Service position of any kind under the Classified Service must be citizens of the United States.

(2) Applicants must provide a copy of a high school diploma or General Equivalency Degree, a valid Tennessee Driver License, must be twenty-one (21) years of age and must provide a copy of a birth certificate. Applicants who have served in the military must also provide a copy of their military discharge.

(3) Applicants for positions in the Classified Service must meet the minimum standards as set by the Tennessee Training and Peace Officers Commission (POST), in addition to minimum standards established by the Board.

(4) Applicants shall be required to participate in an assessment process including, but not limited to, a written exam and interviews, as well as any other assessment process deemed worthy by the Board. A hiring list shall then be assembled based on the assessment.

(5) Applicants for positions in the Classified Service must, in addition to such minimum standards as are stated by the Board, be of ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the Board may deem advisable.

(6) In the event of a vacancy for the position of Police Officer, the board of mayor and aldermen shall be provided with the top two (2) names on the hiring list for consideration. In the event of two (2) vacancies, the board of mayor and aldermen shall be provided with the top three (3) names.

(f)(1) The tenure of everyone holding office, place, position or employment under the provisions of this Section, shall be for and only during good behavior. Any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges for any of the following reasons only:

(A) Dishonesty, intemperance, immoral conduct, insubordination, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of an employee to conduct themselves properly; or any willful violation of the provisions of this Section or the rules and regulations to be adopted hereunder.

(B) Conviction of a felony, or a misdemeanor involving moral turpitude or a misdemeanor reflecting upon the ability to perform public service.

(C) Any other act or failure to act which, in the judgment of the Board, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the Classified Service.

(2) Any person who shall have served for a period of four (4) years as Chief of Police or assistant Chief of Police or a combination of both shall not be demoted from rank except on changes as provided in this Section.

(g)(1) No person in the classified Civil Service who shall have been permanently appointed or inducted into Civil Service under the provisions of this Section shall be removed, suspended or discharged except for cause, and only upon the written accusation of the appointing power. A written statement regarding such accusation shall be served upon the accused and a duplicate filed with the Board. The Chief of the Police Department may suspend a member of the Department pending the confirmation of the suspension by the regular appointing power under this Section, which shall occur within ten (10) days of the suspension. Any person so removed suspended or discharged may, within twenty (20) days from the time of the person's removal, suspension or discharge, file with the Board a written demand for an investigation, whereupon the Board shall conduct such investigation. The investigation shall be confined to the determination of whether such removal, suspension or discharge was or was not made for political reasons and was or was not made in good faith for cause. After such investigation, the Board may affirm the removal or, if it shall find that the removal or suspension was made for political reasons or not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, or discharged. The reinstatement shall, if the Board so provides in its discretion, be retroactive, and entitle such person to receive monetary compensation from the time of such removal, suspension or discharge. The Board shall have the discretion, in lieu of affirming or reversing the removal, suspension or discharge, to modify the order by directing a suspension without pay for a given period and subsequent restoration of duty, grade or pay. The findings of the Board shall be certified in writing to the appointing power and shall be forthwith enforced by such authority.

(2) All investigations made by the Board pursuant to the provisions of this Section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing. The accused shall then be afforded the opportunity of appearing in person and with council present a defense. At any such hearing, the testimony of all witnesses shall be taken in writing and a record made of all proceedings. From any order adverse to the accused, the accused may appeal to the Chancery Court of Cocke County, Tennessee. Such appeal shall be made by serving the Board, within ten (10) days after the entry of such order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the Board affecting or relating to such order be filed by the Board in such Court. The Board shall make, certify and file the transcript with the Chancery Court within twenty (20) days after the filing of such notice. The Court shall thereupon proceed to hear and determine such appeal;

provided, however, that such hearing shall be confined to the determination of whether the order of removal, discharge or suspension made by the Board was or was not made in good faith for cause. No appeal to the Court shall be heard except upon such ground, or grounds, and the decision of the Court shall be final.

(h) Leave of absence, without pay may be granted by the Board upon the recommendation of the Chief of the Police Department, and the Board shall give notice of such leave to the board of mayor and aldermen. A leave of absence may not be granted for any other employment opportunity, excluding military service.

(i)(1) No Board member or any other person shall:

(A) Defeat or deceive any person in respect to that person's right of examination or registration according to the rules and regulations of this Section;

(B) Falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this Section or in so doing, make any false representation concerning the same or concerning the person examined;

(C) Furnish any person special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified; or

(D) Persuade, permit or assist any person to impersonate another person in connection with any examination, registration or application, or otherwise persuade, permit or assist any person in their application or request to be examined or registered.

(j)(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the Classified Service or in any way favored or discriminated against with respect to their employment in the Classified Service because of political or religious affiliation, however all employees must take an oath to support the Constitution of the United States.

(2) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the Classified Service.

(3) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure an appointment or advantage in the appointment process for any person to a position in the Classified Service. Nor shall such authority or influence be used to secure or attempt to secure an increase in pay or other advantage in employment in any position for the purpose of influencing the vote or political action of any person, or otherwise.

(4) No employee in the Classified Service and no member of the Board shall solicit or otherwise take part in soliciting any assessment, subscription or contribution for any political purpose, while on duty or acting in an official capacity.

(5) It shall be the duty of the Board to supervise the execution of the provisions of this Section and the rules made hereunder. It shall be the duty of all persons subject to the provisions of this Section to comply with such rules and to aid in their enforcement.

(k) The members of the Classified Service shall be enrolled in the Tennessee Consolidated Retirement System (TCRS) until and unless the TCRS ceases to exist, in which case a comparable replacement shall be provided. The members of the Classified Service shall have a mandatory retirement age of sixty-five (65) years of age. In the event the member is not Medicare eligible at age sixty-five (65) and has thirty (30) years of service for the City, the City may provide medical insurance until the member is Medicare eligible, provided the member works until the mandatory retirement date.

(l) The Board shall be authorized to employ such clerical or administrative help as is necessary in carrying out the duties assigned to it, and shall also be authorized to retain legal counsel and engage actuarial experts to the extent necessary in carrying out the functions assigned to the Board.

(m) The failure on the part of the Board, or any member thereof, or on the part of the board of mayor and aldermen of the City of Newport, or any member thereof, to comply within the terms of this Section, shall be considered a violation of this Section.

(n) The board of mayor and aldermen of the City of Newport shall provide the Board with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the Board and shall either provide directly or provide the funds for the payment of such necessary clerical, administrative actuarial legal assistance as may be employed by the Board under the provisions of this Section. Failure of the board of mayor and aldermen to make such provisions shall be considered a violation of the Section.

(o) The board of mayor and aldermen of the City of Newport shall have authority to appropriate from the general funds of the City a sum sufficient to carry out the purposes of this Section, and shall make such appropriation. Under the provisions of this Section, it shall be the duty of the board of mayor and aldermen of the City of Newport to appoint and create the Board as provided in subsection (a) of this Section within thirty (30) days following the effective date of this act. Failure of the board of mayor and aldermen, or any of its members to do so shall be deemed a violation of this Section.

(p) It shall be the duty of the Board appointed subject to the provisions of this Section to organize immediately and to ensure that the provisions herein are carried into effect, and to make suitable rules and regulations to effect said purposes. Failure of the Board, or any individual member thereof, to do so shall be deemed a violation of this Section.

Section 13. Fire Civil Service.

(a) There is created a system of fire civil service of the City of Newport. A civil service board, hereafter referred to as "the board" to consist of three (3) members, is hereby created to administer the system of fire civil service. One (1) member of the board shall be elected by the board of mayor and aldermen of the City of Newport, one (1) member shall be elected by the members of the classified service, of the fire department, and the person receiving a majority of the votes of the members of the classified service shall become one (1) member of the board. The person selected by the board of mayor and aldermen of the City of Newport and the person selected by the majority vote of the classified service shall then select a third person within ten (10) days after their appointment and selection and the person agreed upon by those two (2) so appointed and elected shall constitute the third member of the board. If the two (2) members appointed and selected shall fail to agree within ten (10) days after their appointment, the board of mayor and aldermen of the City of Newport shall appoint four (4) citizens to meet and confer with four (4) other citizens appointed by the members of the classified service. Such joint committee of eight (8) shall meet within ten (10) days of their appointment, and appoint a person who shall constitute the third member of the board.

The three (3) members thus appointed to the board shall serve as board members for a period of three (3) years, or until their successors are appointed and qualified. On or before the expiration of the term of each board member, the successor shall be selected in the same manner as the prior selection of the board member whose term thus expires, to the end that the successor to the member appointed by the board of mayor and aldermen shall likewise be appointed to the board, the successor to the member elected by the classified service shall likewise be elected by the members of the classified service, and the successor to the member appointed by the two (2) other board members shall likewise be appointed by the two (2) other board members.

The members of this board shall receive for their services an amount to be determined by the board of mayor and aldermen of the City of Newport for each day's attendance upon sessions of the board, to be paid out of the general fund of the City of Newport. No person shall be appointed a member of such board who is not a citizen of the United States, a resident of the City of Newport for at least one (1) year immediately preceding such appointment, and an elector of Cocke County. No member of the classified service, or any councilman of the City of Newport, may be a member of the board.

Any member of the board may be removed from office by the board of mayor and aldermen of the City of Newport for incompetency, dereliction of duty, malfeasance in office or upon conviction of any crime involving moral turpitude. However, no member of the board shall be removed until charges shall have been preferred in writing, due notice given and a full public hearing had before the board of mayor and aldermen of the City of Newport. Such removal shall be for a period of ten (10) days, during which time any member so removed shall have the right to appeal to the chancery court of Cocke County, which court shall thereupon proceed to hear and determine such appeal. On appeal, the hearing shall be confined to the determination of whether the order of removal made by the board of mayor and aldermen of the City of Newport was or was not made in good faith for proper

cause, and no appeal to such court shall be taken except upon such grounds, and the decision of such court shall be final.

The members of the board shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this section. Two (2) members of the board shall be sufficient for the decision of all matters and the transactions of all business to be decided or transacted by the board under and by virtue of the provisions of this section. Due notice of all meetings shall be given so that all three (3) board members may have an opportunity to be present. The board shall transact no business and make no decisions until and except all three (3) board members shall have taken office and remain qualified to act.

(b) Those subject to fire civil service. The provisions of this section shall apply to all member personnel working on a full-time basis in the fire department in the City of Newport, and the chief of the department. All such persons together shall be known as the classified service. All other city employees shall be known as the unclassified service.

(c) Appointments, promotions, discharges, how made. All future appointments to and promotions in the classified service, except as otherwise provided in this section, shall be made on the basis of seniority, fitness and efficiency, which shall be determined by the following method:

Subject to the other standards set forth in this section, the following minimum standards shall be set by the chief of the fire department and the board: mental ability, physical conditions, experience, education, personality, and specified training for each job classification in the department up to and including the position of chief of the fire department. Such standards when set shall remain in effect until altered by action of the board. After the enunciation of such standards, a roster shall be kept by the board of all full-time personnel in the classified service indicating what job classifications within the respective department such personnel are eligible to fill. A roster shall also be kept on all applicants to become members of the classified service with appropriate indication of what job classifications such applicants are eligible to fill.

After the enunciation of the standards, no vacancy shall be filled except by a person on the roster of persons having the requisite qualifications to fill such vacancy. If any vacancy shall occur within any branch of the classified service, the vacancy shall be offered first to that member of the same branch qualified on the roster who shall have the greatest seniority and so on, in descending order. However, if a vacancy occurs in the office of chief of the fire department, the vacancy shall be filled by the board of mayor and aldermen of the City of Newport from among all the qualified names on the roster without necessary regard to seniority. No person shall be reinstated in, or transferred, suspended or discharged from any place, position, or employment in the classified service contrary to the provisions of this section.

(d) Function and duties of the civil service board. The board shall organize by electing one (1) of its members as chairman and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties, not to exceed three (3) days in any one (1) month.

The board shall appoint a secretary who shall keep its records, preserve all reports made to it, superintend and keep a record of all examinations and perform such other duties as the board may prescribe.

It shall be the duty of the board:

(1) To make suitable rules and regulations not inconsistent with the provisions of this section. Such rules and regulations shall provide in detail the manner in which examinations may be held and appointments, promotions, transfers, demotions, reinstatements, suspensions and discharge shall be made, and may also provide for any other matters connected with the general subject of personnel administration. The rules and regulations shall include the methods used in determining the standard for each job classification in the classified service. The rules and regulations may be changed from time to time by the board and shall be printed or mimeographed for free public distribution.

(2) The rules and regulations shall include provisions so that seniority may not be lost by any person holding a position in the classified service if such person leaves the classified service to enter the military service of the United States, if such person returns to the classified service within six (6) months following his honorable discharge from such service. In such cases the period of military service shall be included in the period of seniority of such person.

(3) The board shall make investigations and report upon all matters touching the enforcement and effect of the provisions of this section, and the rules and regulations prescribed hereunder, inspect all institutions and employment affected by this section, and ascertain whether the section and all such rules and regulations are being obeyed. Such investigations shall be made by the board on its own motion and must also be made on petition of any citizen duly verified stating that irregularities or abuses exist, or setting forth in writing the necessity for such investigation. In the course of such investigation, the board shall have the power to administer oaths, subpoena and require the attendance of witnesses, and require the production of books, papers, documents and accounts appertaining to the investigation. The failure upon the part of any person to comply with such subpoena or demand shall be deemed a violation of this section and be punishable as such.

(4) All hearings and investigations before the board shall be governed by this section and by the rules of practice and procedure to be adopted by the board. The board, or its designated hearing officer, shall not be bound by technical rules of evidence. No formality in any procedure or hearing shall invalidate any order, decision, rule or regulation made or approved by the board. No decision shall be binding unless concurred in by at least two (2) of the board members.

(5) To hear and determine appeals to complaints relative to the allocation of positions, the determination of job changes, the furnishing of rosters and the position of members of the classified service, and of applicants on such roster, and such other matters relating to the administration of this section as may be referred to the board.

(6) To prepare a standard schedule of pay and hours based generally upon presently applicable salary rates and hours worked for each class of positions in the classified service. Such pay plan shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position. In increasing or decreasing items in budgets, the board of mayor and aldermen of the City of Newport shall not increase or decrease any individual salary item, but shall act solely with respect to classes of positions as established in the classification and pay plan. In no event shall the board of mayor and aldermen reduce the salary of a class below the minimum or raise it above the maximum salary established by the pay plan except by amendment of the same. In establishing the pay plan, the board shall not set the minimum rate for the chief of the fire department below two hundred dollars (\$200) a month, and such minimum figure shall not be lowered, except by the unanimous vote of the board. Nothing in this section shall limit the hours to be worked in event of riot, dangerous fire or other bona fide emergency. Nothing in this section shall prevent the chief of the fire department from being assigned additional duties as he has customarily performed prior to the enactment of this section.

(7) To see that the job classifications, the standard for filling classifications and the roster of eligible appointees for each classification are kept continuously up to date, and posted in the fire department. The rosters shall show name, rank and number in their proper order by reason of seniority established by continuous service in the department. Terms of leaves of absence granted by the board hereby created upon recommendation of the chief of the fire department shall not forfeit the rights of the member granted leave under this section nor be charged against such member in his order of seniority.

(8) To make provisions that men laid off because of curtailment of expenditures, reduction in force, and for like causes, shall be the last man, or men, including probationers, that have been appointed in the classified service. Rules and regulations shall provide that men so laid off shall be reinstated before any new appointments to the classified service shall be made.

(9) To keep the appointing authority notified of the person highest on each eligible list for appointment to each vacancy that may occur.

(10) To keep such records as may be necessary for the proper administration of this section.

(e) Adoption and induction of incumbents into civil service. All persons holding positions in the fire department when the civil service for the fire department was initially enacted pursuant to Chapter 202 of the Private Acts of 1974, including the chief thereof, who shall have served in such position for a period of at least two (2) months previous thereto, are hereby inducted into civil service in the office, position or employment which such persons respectively held on such date, subject, however, to removal, demotion, or suspension upon the same terms as any other person inducted permanently into civil service after the enactment of Chapter 202 of the Private Acts of 1974.

(f) Applicants.

(1) Citizenship. An applicant for a civil service position of any kind under the classified service must be a citizen of the United States, who can read and write the English language.

(2) Character and Fitness. Every applicant for a position in the classified service must, in addition to such minimum standards as are stated by the board, also be of ordinary good health, of good moral character and of temperate and industrious habits, such fact to be ascertained in such manner as the board may deem advisable.

(g) Tenure of office of employees in the classified service. The tenure of everyone holding office, place, position or employment under the provisions of this section shall be for and only during good behavior. Any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons, but for no other reasons:

(1) Dishonesty, intemperance, immoral conduct, insubordination, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to conduct himself properly; or any willful violation of the provisions of this section or the rules and regulations to be adopted hereunder.

(2) Conviction of a felony, or a misdemeanor involving moral turpitude or a misdemeanor reflecting upon ability to perform public service or one for which a jail sentence is or may be imposed.

(3) Any other act or failure to act which, in the judgment of the board, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the classified service.

(h) Removal. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under the provisions of this section shall be removed, suspended or discharged except for cause and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation shall be served upon the accused, and a duplicate filed with the board. The chief of the fire department may suspend a member of the department pending the confirmation of the suspension by the regular appointing power under this section which must be within ten (10) days. Any person so removed, suspended or discharged may within twenty (20) days from the time of his removal, suspension or discharge, file with the board a written demand for an investigation, whereupon the board shall conduct such investigation. The investigation shall be confined to the determination of whether such removal, suspension or discharge was or was not made for political reasons and was or was not made in good faith for cause. After such investigation, the board may affirm the removal, or if it shall find that the removal or suspension was made for political reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or from which such person was removed, suspended or discharged, which reinstatement shall, if the board so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension or discharge. The board in its discretion in lieu of affirming or reversing the removal, suspension or discharge, may modify the order by directing a suspension without pay of a given period and subsequent restoration of duty, grade or pay; and the findings of the board shall be certified in writing to the appointing power and shall be forthwith enforced by such authority.

All investigations made by the board pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel and presenting his defense. At any such hearing the testimony of all witnesses shall be taken in writing and a record made of all proceedings. From any order adverse to the accused, the latter may appeal to the chancery court of Cocke County. Such appeal shall be taken by serving the board, within ten (10) days after the entry of such order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the board affecting or relating to such order be filed by the board in such court. The board shall within twenty (20) days after the filing of such notice, make, certify and file such transcript with such court. The chancery court shall thereupon proceed to hear and determine such appeal. On appeal, the hearing shall be confined to the determination of whether the order of removal, discharge or suspension made by the board was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground, or grounds, and the decision of the court shall be final.

(i) Duties of all officers and employees to assist the board. It shall be the duty of all officers and employees of the City of Newport to aid in all proper ways in carrying out the provisions of this section, and such rules and regulations as may, from time to time be prescribed by the board thereunder and to afford the board, its members and employees, all reasonable facilities and assistance in the inspection of all books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, papers, documents and accounts relevant to the duties of the board, and to attend and testify whenever required so to do by the board or any member thereof.

(j) Appointments to vacant positions: certification from lists. Whenever a position in the classified service becomes vacant, the board of mayor and aldermen of the City of Newport shall make requisition upon the board for the name and address of those persons eligible for appointment thereto. The board shall certify the name of the person highest on the eligible list willing to accept employment, except in cases where the person who would be certified is not at the time of certification employed in the classified service, in which cases the board shall certify the two (2) names highest on the appropriate list, and the board of mayor and aldermen shall appoint one (1) of the persons so certified. In the case of a vacancy in the office of chief of the fire department, the board shall certify the names of all persons eligible to fill the vacancy, and the appointing authority shall appoint one (1) of the persons so certified. If more than one (1) vacancy is to be filled, an additional name shall be certified for such additional vacancy.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the board of mayor and aldermen shall forthwith appoint the person, or, in the proper case, from among the persons so certified to such position.

The board of mayor and aldermen of the city, as to the chief of the fire department, and the chief of the fire department with the approval of the board of mayor and aldermen, as to all other personnel shall, notwithstanding any other provisions of this section, upon proper certification by the board of the eligibility of an applicant for any position in the classified service, be empowered to appoint such person to such position for a period of six (6) months, during which time such applicant shall be on probation and subject to removal for just cause shown at any time during such six (6) month period; or if the board of mayor and aldermen shall in its discretion deem such person on probation unfit and unsatisfactory for such position, then such person on probation may be dismissed or transferred to another classification on probation, without prejudice to such applicant. Whatever action may be taken by the board of mayor and aldermen with respect to such applicant or probationer shall not be reviewable by the board. In the event of dismissal of such applicant or probationer for reasons satisfactory to the board of mayor and aldermen of the City of Newport, then the board shall certify the name of the next person, or in the proper case, persons on the eligible list as the same shall appear from the records of the board.

(k) Leave of absence. Leave of absence, without pay, may be granted by the board upon the recommendation of the chief of the fire department, and the board shall give notice of such leave of absence to the board of mayor and aldermen. All temporary employment caused by leaves of absence shall be made from the eligible list of classified civil service of the department concerned.

(l) False marking, grading, prohibited. No board member or any other person, shall, alone, or in cooperation with one (1) or more persons, defeat or deceive any person in respect of the person's right of examination or registration according to the rules and regulations of this section, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this section or aid in so doing, or make any false representation concerning the same or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or persuade any other person, or permit or aid in any manner any person to impersonate any other person, in connection with any examination or registration or application or request to be examined or registered.

(m) Political activities prohibited.

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to the employment in the classified service because of his political or religious opinions, but all employees must take an oath to support the Constitution of the United States.

(2) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.

(3) No person shall use or promise to use, directly or indirectly, any political or official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service or an increase in pay or other advantages in employment in any such position either for the purpose of influencing the vote of political action of any person, or for any consideration, or otherwise.

(4) It shall be the duty of the board to supervise the execution of the foregoing civil service provisions of this section and the rules made thereunder, and it shall be the duty of all persons under the provisions of this section and in the service of the fire departments to comply with such rules and to aid in their endorsement.

(n) Authority of board to obtain assistance. The board shall be authorized to employ such clerical or administrative help as is necessary in carrying out the duties assigned to it, and shall also be authorized to retain legal counsel and engage actuarial experts to the extent necessary in carrying out the functions assigned to the board.

(o) Compliance with section required. The failure on the part of the board, or any member thereof or on the part of the board of mayor and aldermen of the City of Newport, or any member thereof, to comply with the terms of this section shall be considered a violation of this section and shall be punishable as such.

(p) Facilities for administration required. The board of mayor and aldermen of the City of Newport shall provide the board with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the board and shall either provide directly or provide the funds for the payment of such necessary clerical, administrative, actuarial and legal assistance as may be employed by the board under the provisions of this section and the failure on the part of the board of mayor and aldermen to do so shall be considered a violation of this section and shall be punishable as such.

(q) Authority to appropriate funds for administration. Appointment of board required. The board of mayor and aldermen of the City of Newport shall have authority to appropriate from the general funds of Newport a sum sufficient to carry out the purposes of this section and shall make such appropriation. It shall be the duty of the board of mayor and aldermen of the City of Newport, subject to the provisions of this section, to appoint and create the board, and failure upon the part of the board of mayor and aldermen, or any member of it so to do, shall be deemed a violation of this section and shall be punishable as such.

(r) Organization of board. It shall be the duty of the board appointed subject to the provisions of this section to organize immediately and see that the provisions thereof are carried into effect, and to make suitable rules and regulations to effect such purposes; and the failure upon the part of the board, or any individual member thereof so to do, shall be deemed a violation of this section and shall be punishable as such.

(s) Violation of this section. The failure on the part of any person to comply with the provisions of this section, shall be considered a violation of this section and punishable by a fine not to exceed fifty dollars (\$50.00).

(t) Effect on other laws. This section shall have no effect on the police civil service system, but is in addition thereto.

Section 14. Powers of board with respect to ordinance violators.

The board of mayor and aldermen of Newport shall have the power and authority within the city to provide for the enforcement of the ordinances of the city, and they shall have full power and authority to erect a correctional facility for the safekeeping of prisoners, and when any person or persons violate any ordinance of the corporation, and fails or refuses to pay or secure to be paid the fines and costs accruing thereon, the board of mayor and aldermen may provide by ordinance for the punishment of such persons for contempt or as otherwise provided by law.

Section 15. Street paving.

The board of mayor and aldermen of the City of Newport shall have full authority to lay off and open up new streets, lanes and alleys in the city, and extend the old ones for the convenience of the inhabitants thereof in the manner and mode prescribed in general law, and may by ordinance, or

otherwise, require owners of business houses to place good and substantial pavements of brick or stone in front of their houses. The board of mayor and aldermen of the City of Newport may, by ordinance or otherwise, require the owners of real estate within the corporate limits of the city to place good and substantial pavements adjacent to their real estate wherever the same may abut or touch any street within the corporate limits of the city, and to maintain the same when placed, such pavements to be built under the direction of the board of mayor and aldermen and in accordance with specifications to be furnished by the board.

Section 16. Registration of voters.

The board of mayor and aldermen of the City of Newport shall have the right to provide by ordinance for the registration of all persons who are entitled to vote in the various municipal elections in accordance with general law.

Section 17. General powers.

The board of mayor and aldermen of the City of Newport shall have all the powers and be subjected to all the limitations and restrictions provided for municipalities in general law.

Section 18. Newport Utilities Board.

For the purpose of operating and administering the waterworks plant and system and the electric distribution system of the City of Newport, Tennessee, and such other public utilities including the sewerage system, as may now be owned or hereafter acquired by the City of Newport, Tennessee, there is hereby created an administrative body to be known as "Newport Utilities Board." The board shall consist of seven (7) members each of whom shall be a qualified voter of Newport, Tennessee. Each member shall serve for a term of six (6) years and be elected by majority vote of the board of mayor and aldermen of the City of Newport, Tennessee.

At least one (1) member of the Newport Utilities Board elected by the board of mayor and aldermen of the City of Newport must be a current member of the board of mayor and aldermen, and such member is not precluded from voting on the matter of the member's election to the Board of Public Utilities. When the board member's elected term of office on the board of mayor and aldermen expires, such member's membership in the Newport Utilities Board likewise expires and the board position shall be vacant until filled by the board of mayor and aldermen for a period extending until the completion of the six (6) year term of office. At such time the board of mayor and aldermen may elect a new member from among their body or may reinstate the existing member for a new six (6) year term.

Any vacancy in the membership of the board shall be filled for the unexpired term by majority vote of the board of mayor and aldermen. Compensation for members of the Newport Utilities Board shall be set by the board of mayor and aldermen of the City of Newport. In meetings of the board, four (4) members shall constitute a quorum and all actions of the board shall be approved by a majority vote of those members present at such meeting. The board shall take the oath of office prescribed for judges of the State of Tennessee. Members of the board shall be removable from office only by general ouster proceedings for the causes appropriate to such proceedings. The Newport Utilities Board created by this section shall elect one (1) of its members as chairman and shall appoint a secretary, who may, if desired, be one (1) of the members of the board. The treasurer of the City of Newport shall act as treasurer of the Newport Utilities Board in an ex officio capacity and shall not have a vote on the board. The board shall fix a place and time at which its regular meetings are to be held and may adopt such rules and bylaws for the conduct of its business as it deems fit and proper. The Newport Utilities Board shall have complete charge and control of the waterworks plant and system and electric distribution system, and all other public utilities including the sewerage system, as may now be owned or hereafter acquired by the City of Newport, Tennessee, and to that end may employ a superintendent and other employees, and fix rates, and enter into contracts and generally operate and administer such public utilities before mentioned, completely free from the control or supervision of the board of mayor and aldermen of the City of Newport, Tennessee, provided only that in the operation of such utilities and the fixing of rates, the Newport Utilities Board shall observe all covenants and agreements entered into or made by the board of mayor and aldermen under the provisions hereof at the time of the authorization of bonds. The Newport Utilities Board shall possess the powers, rights and privileges and perform the same duties and functions as the present "Board of Public Utilities."

The Newport Utilities Board shall have all the powers, rights, privileges and perform the same duties and functions as "The Board of Public Utilities" created by Chapter 497 of the Private Acts of the General Assembly of the State of Tennessee for the year 1939, it being the intention of

the Legislature that one (1) board, to wit, Newport Utilities Board, shall operate and administer the waterworks plant system and electric distribution system of the City of Newport, Tennessee.

The operation of the waterworks plant and system of the City of Newport and the operation of any other utility owned by the city and the rates imposed for services rendered and water furnished by the system or utilities shall not be subject to regulation by the Tennessee Regulatory Authority or by any other state regulatory or administrative board.

Section 19. Waterworks and sewers.

The board of mayor and aldermen of the City of Newport is hereby authorized to provide for a system of waterworks and sewers within the city. For that purpose, the board may levy and collect a special tax to create a sinking fund for the payment of the principal and interest of any bonds which may be issued by the board of mayor and aldermen for the purpose of building a system of waterworks and sewers for the city, such special levy to be in addition to any levy otherwise authorized by this Charter.

The board of mayor and aldermen of the City of Newport, Cocke County, shall have the power and right to condemn pursuant to Tennessee Code Annotated, Title 29, Chapters 16 and 17, any spring or springs, running streams, or other watercourse and the water thereof, or such portion of the same as may be necessary to use in supplying the board of mayor and aldermen of the City of Newport, Cocke County, or the inhabitants thereof, with water; and shall have the power and right to condemn a right-of-way for the laying of any and all such pipes as may be necessary in piping such water from any such spring or springs, running streams, or other watercourse, to a suitable pumping station, or to its reservoir or reservoirs, or to the corporate limits of the city; and to condemn any and all land necessary for reservoir purposes, approaches thereto, rights of ingress and egress, either within or without the corporate limits of the city.

Just compensation shall be made by the board of mayor and aldermen of the City of Newport, Cocke County, in exercising the right of eminent domain under the provisions of this section to the owners of such spring or springs, running streams, or other watercourses, for the water thus taken, and to all riparian owners for damages resulting to them from taking such water, and to the owners of land taken for rights-of-way for pipelines for the value of such rights-of-way, and to the owners of land thus condemned for pumping stations or sites for reservoir or reservoirs, and for all land also condemned for approaches thereto, rights of ingress and egress, either within or without the corporation limits of the city, for the damages resulting to them for such taking.

In the event the board of mayor and aldermen of the City of Newport, Cocke County, desire to exercise the right of eminent domain herein by this section conferred, are unable to agree with the owner or owners of any such spring or springs, running streams, or other watercourse, or with any riparian owner or owners of any such land necessary for rights-of-way for pipelines, or lands necessary for pumping station or reservoir sites, approaches thereto, rights of ingress and egress to and from same, as to the amount of compensation that shall be paid, as herein provided, the proceedings for condemning such spring or springs, running streams, or other watercourses, or such riparian right or such right-of-way for pipelines, pumping stations, sites for reservoir or reservoirs, either within or without such corporate limits, and for fixing such compensation, shall be the same in all respects as provided by any and all other general laws of the State of Tennessee which have been or which may be hereafter enacted governing the exercise of the rights of eminent domain.

Section 20. Sewer charges.

The board of mayor and aldermen of the City of Newport, Tennessee, be and are hereby authorized to impose a monthly rental charge of not to exceed one dollar (\$1.00) per month on all present and future users connected with the sewage system and that, in addition, if it be deemed necessary by the board of mayor and aldermen of the City of Newport, Tennessee, in order to retire any bonds issued under Chapter 864, Private Acts of 1947, on schedule and keep the interest thereon paid as due, the board of mayor and aldermen shall be empowered and authorized to levy a special tax, or charge, for making connections to the sewage system, which tax shall not exceed the sum of twenty-five dollars (\$25.00) per connection, and which shall be levied against all new users connected with the system or all present users connected therewith, or both, as the board may deem necessary and advisable. In the event either or both of the sources of revenue set out in this section are adopted by the board of mayor and aldermen, then a special fund shall be set up as a repository for such rents or connection charges, or both.

The board of mayor and aldermen of the City of Newport may in its discretion levy and collect a sewerage charge and may pledge the net revenues from such charge as additional security

for the payment of principal of and interest on bonds authorized under Chapter 473, Private Acts of 1953.

Section 21. Process and arrest powers of policemen.

The police officers shall have all authority to execute warrants and process for the corporation in accordance with Tennessee Code Annotated, Title 6, Chapter 54, Part 3 and other provisions of general law.

Section 22. Absence or disability of recorder.

In the absence of the recorder or in case of incompetency or disability on the recorder's part to discharge any of the duties of the office, the same may be discharged by the city administrator or his/her designee.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Newport within 120 days of its signing by the governor of this state. The office of city recorder will continue until such time as the current city recorder resigns or until completion of the existing term of office of the Newport City Recorder, which runs until the election in November of 2006, at which time such office will be abolished as provided in this act. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Newport and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: May 26, 2005


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of June 2005


PHIL BREDESEN, GOVERNOR